IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 17132 of 2007(M)

PETITIONER:

T.GANESAN PILLAI, VENKATACHALA BHAVAN,
NETTAYAM, THIRUVANANTHAPURAM.
(CHAIRMAN, T.S.ARUNACHALAM PILLAI
MEMORIAL EDUCATIONAL AND CHARITABLE TRUST,
KACHANI P.O., THIRUVANANTHAPURAM).

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENTS:

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1. UNION OF INDIA, REPRESENTED BY THE SECRETARY, MINISTRY OF HEALTH AND FAMILY WELFARE, NIRMAN BHAVAN, NEW DELHI.

2. MEDICAL COUNCIL OF INDIA, POCKET 14, SECTOR 8, DWARAKA, NEW DELHI - 110075, REPRESENTED BY ITS SECRETARY.

3. STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, HEALTH AND FAMILY WELFARE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

4. UNIVERSITY OF KERALA, REPRESENTED BY ITS REGISTRAR, THIRUVANANTHAPURAM.

R2 BY ADV. SRI.ALEXANDER THOMAS, SC, MCI
R4 BY STANDING COUNSEL SRI.M.RAJAGOPALAN NAIR
R3 BY GOVT.PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.17132 OF 2007)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the consent letter dtd.28.8.2003 issued by the P.R.S.Hospital, Thiruvananthapuram.

Ext.P2: Copy of the Essentiality Certificate dtd.12.9.04.

Ext.P3: Copy of the Govt. Order dtd.29.3.06.

Ext.P4: Copy of the letter dtd. 27.9.06.

Ext.P5: Copy of the consent of affiliation dtd.12.1.06.

Ext.P6: Copy of the letter dtd.13.10.06.

Ext.P7: Copy of the receipt dtd.10.10.06.

Ext.P8: Copy of the letter dtd.30.12.06.

Ext.P9: Copy of the letter dtd.24.11.2006.

Ext.P10: Copy of the letter dtd. 15.1.07.

Ext.P11: Copy of the petition dtd.25.1.07 submitted by the petitioner before the University.

Ext.P12: Copy of the letter dtd.5.2.07.

Ext.P13: Copy of the letter dtd.13.2.2007 issued by R1.

Ext.P14: Copy of the petition dtd.6.3.2007 issued by the petitioner before the University.

Ext.P15: Copy of Judgment in W.P(C) No.7864/04.

Ext.P16: Copy of letter dtd.15.5.2007 of R4.

Ext.P17: Copy of No Objection Certificate dtd.17.2.2006.

-True Copy-

- P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO. 17132 OF 2007 - M

Dated this the 18th day of June, 2007

J U D G M E N T

Heard the learned counsel for the petitioner, the learned Standing Counsel appearing for the fourth respondent-University, the Assistant Solicitor General appearing for the first respondent-Union of India, Sri.Alexander Thomas, counsel appearing for the second respondent- Medical Council of India and the Government Pleader appearing for the third respondent.

2. The petitioner is aggrieved by the refusal on the part of the fourth respondent-University to issue renewed consent o affiliation for starting of a Self-financing Medical College. The only contention put forward by the learned Standing Counsel for the fourth respondent is that the University is of opinion that there is no need of additional Medical Colleges in the area in question. The Supreme Court in **State of Maharashtra** v. **Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and others** (2006) 9 SCC 1 which I have followed in W.P(C) No.10662 of 2006

had held that it is not for the University to decide the question as to local needs and it is exclusively within the jurisdiction of the first and second respondents to decide that question. That being so, I am not satisfied with the action of the fourth respondent in refusing the issue of consent of affiliation on the ground now put forward. In the above circumstances, I allow this writ petition and quash Ext.P16 and direct the fourth respondent-University to issue renewed consent of affiliation to the petitioner within one week from the date of receipt of a copy of this judgment.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007